

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

MAY 03 2016

Clerk, U S District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

JOHN MORGAN MEEKS,

Defendant/Movant.

Cause No. CR 03-28-BU-DWM
CV 16-19-BU-DWM

ORDER DISMISSING § 2255
MOTION AND DENYING
CERTIFICATE OF APPEALABILITY

The Court has received yet another motion from Defendant Meeks. Because Meeks is seeking relief under *Johnson v. United States*, __ U.S. __, 135 S. Ct. 2551 (2015), the motion is recharacterized as a motion under 28 U.S.C. § 2255.

As Meeks knows, this Court lacks jurisdiction to entertain successive motions under 28 U.S.C. § 2255. *See Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam).

Further, both this Court and the Court of Appeals have given Meeks opportunities to show he is entitled to relief under the Supreme Court's decisions in *Johnson* or *Descamps v. United States*, __ U.S. __, 133 S. Ct. 2276 (2013). Counsel was appointed to act for him. Counsel failed to identify any reason to believe Meeks was not properly sentenced. *See generally* Order (Doc. 181); Order (Doc. 188); Mem. (Doc. 191) at 2, *United States v. Meeks*, No. 13-36023 (9th Cir.

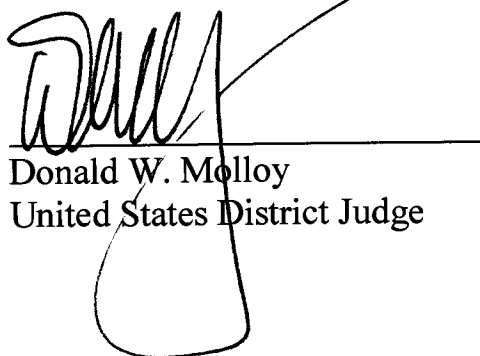
Sept. 22, 2015); Order (Doc. 195); Order (Doc. 202).

Consequently, although the court of appeals alone has jurisdiction to consider whether Meeks should be permitted to proceed with a successive § 2255 motion, there is no reason to transfer Meeks' instant motion to the court of appeals. 28 U.S.C. § 1631. There is no reason to believe Meeks is entitled to relief under *Johnson* or *Descamps*.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Meeks' motion (Doc. 203), recharacterized as a motion under 28 U.S.C. § 2255, is DISMISSED as an unauthorized successive motion.
2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Meeks files a Notice of Appeal;
3. The Clerk of Court shall ensure that all pending motions in this case and in CV 16-19-BU-DWM are terminated and shall close the civil file by entering judgment in favor of the United States and against Meeks.

DATED this 3rd day of May, 2016.


Donald W. Molloy
United States District Judge